FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE
Cri. WRIT PETITION NO. 2924 OF 2005

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders. Court's or Judge's orders

Mr. Baijnath R. Upadhyay, Petitioner- in person.
Mr. D.S. Mhaispurker APP for Respondents

CORAM: B.H. MARLAPALLE
&
SMT. R.S. DALVI JJ.

DATE:07/2/2006

P.C.:

1. Mr. Baijnath s/o. Ramsurat Upadhyay, an Engineer working with the Central Railways has filed this petition and alleged that his minor daughter Shashi was kidnapped by the respondent no.5 and was subsequently forced to lead a matrimonial relationship. He had filed complainants with respondent nos. 3 and 4 and upon investigations chargesheets came to be filed and came to be registered as Sessions Case No. 881 of 2001 and Sessions Case no. 1035 of 2004. The petitioner has filed this petition on his own capacity and argued the petition in person. He has prayed for the following reliefs:

a) Transfer of Sessions Case Nos. 881 of 2001 and 1035 of 2004 outside the State of Maharashtra for their trial;

b) The complaint filed by him be directed to be re-investigated by the Central Bureau of Investigation;

c) Daughter Shashi be handed over in his custody after she is produced before this court;

d) Bail of the accused be canceled and eh be directed to be taken into custody;

e) The Police Officers who were responsible for the investigation of his complaints be proceeded against as per law, if found guilty;

f) Direct all TV channels to show the truth of his case; and

g) To direct appropriate action against the advocates for professional misconduct by accepting money from the opposite side.

2. The last prayer cannot be gone into by this court as it is within the realm of the Bar Council of Maharashtra and Goa under the Advocate's Act 1961. Similarly the prayer for transfer of the Sessions Cases for trial outside Maharashtra cannot be considered by this court and the petitioner's remedy for the same lies somewhere else. As the chargesheets have been filed, the

need of further investigation by the CBI is non existent, more so when the petitioner's daughter Shashi with her husband Sunja Ram is present before us, pursuant to the order passed on 26.1.2006. The daughter was interviewed by one of us (Smt. Roshan Dalvi J) and thereafter her husband was also interviewed in Chamber. In no uncertain words Shashi has stated that she has entered in a wedlock with respondent no.5 on her own sweet will and has now begotten a child from the said wedlock. She has denied that she was abducted or forced into a marriage with respondent no.5 either by him or by any other member of his family. As at present she is a major (24 years of age) and therefore she is fully entitled to take her own decisions. The petitioner's prayer for her custody cannot be considered under such circumstances.

3. If the petitioner has any complaint against any individual police officer he can approach the Commissioner of Police, Greater Bmbay and request for appropriate action in case of dereliction of duty. The remaining prayers of the petitioner i.e., directions to TV channels

to show the truth and direction for fresh investigations by cancelling the bail orders passed in favour of respondent no.5 cannot be considered by this court.

4. On the other hand the petitioner's daughter Shashi during the course of interview has conveyed her fears about the safety of herself, her child as well as husband on account of the petitioner 's acts and in fact she went to the extent of requesting for police protection. We hope that the petitioner being a Central Railway Employee will appreciate the realities as they are today and refrain himself from acting in haste or taking law in his own hands at any time in future.
5. In the premises we do not see any reason to entertain this petition and the same is hereby rejected summarily.

(SMT. R.S. DALVI J.) (B.H. MARLAPALLE J.)